

## § 9901.332

## 5 CFR Ch. XCIX (1–1–09 Edition)

(10) Other payments and adjustments under other statutory or regulatory authority for which locality-based comparability payments under 5 U.S.C. 5304 are considered part of basic pay; and

(11) Any other provisions for which DoD local market supplements are expressly treated as basic pay by law or under this part.

### § 9901.332 Standard and targeted local market supplements.

(a) *General.* NSPS employees may receive standard or targeted local market supplements as described in paragraphs (b) and (c) of this section. Consistent with 5 U.S.C. 9902(e)(8), the full amount of standard and targeted local market supplements must be provided to employees who receive a rating of record above unacceptable (Level 1) or who do not have a rating of record for the most recently completed appraisal period. As provided in § 9901.334, an employee with an unacceptable rating of record may not receive an increase in a standard or targeted local market supplement. Standard local market supplements are designed to satisfy the requirements of 5 U.S.C. 9902(e)(8)(A), while targeted local market supplements are the “other local market supplements” referenced in 5 U.S.C. 9902(e)(8)(B).

(b) *Standard local market supplements.* Employees are entitled to standard local market supplements that are generally equivalent to locality payments under 5 U.S.C. 5304 and 5304a, subject to the following requirements:

(1) The percentage values of standard local market supplements must be identical to the percentage values of locality payments established under 5 U.S.C. 5304 and 5304a, except as provided in § 9901.334 with respect to employees with an unacceptable rating of record;

(2) The geographic areas in which standard local market supplements apply must be identical to the corresponding geographic areas established for locality payments under 5 U.S.C. 5304;

(3) An employee’s entitlement to a standard local market supplement is based on whether the employee’s official worksite (defined consistent with

the requirements in 5 CFR 531.605) is located in the given local market area;

(4) The applicable standard local market supplement is paid on top of a retained rate (consistent with the NSPS modification of the pay retention rules);

(5) The cap on an adjusted salary rate that includes a standard local market supplement is the rate for level IV of the Executive Schedule plus 5 percent (consistent with the NSPS extension of the highest band base rate ranges by 5 percent), as provided in § 9901.312(b), except as otherwise provided under § 9901.312(d);

(6) A standard local market supplement does not apply if an employee is entitled to a higher targeted local market supplement; and

(7) Standard local market supplements are not applicable to physicians and dentists (in occupational series 0602 and 0680, respectively), since they receive higher base salary and adjusted salary rates (including any applicable targeted local market supplements) to achieve comparability with physicians and dentists paid under 38 U.S.C. chapter 74 and since their adjusted salary rates apply on a worldwide basis.

(c) *Targeted local market supplements.* Subject to § 9901.105, the Secretary may establish targeted local market supplements for specifically defined categories of employees in order to address significant recruitment or retention problems. This authority is subject to the following:

(1) The conditions for coverage under a targeted local market supplement may be based on occupation, band, organizational unit, geographic location of official worksite, specializations, special skills or qualifications, or other appropriate factors;

(2) A targeted local market supplement applies to an employee eligible for a standard local market supplement only if the targeted local market supplement is a larger amount; and

(3) Except for physicians and dentists (in occupational series 0602 and 0680, respectively) or as otherwise provided under § 9901.312(d), an employee’s adjusted salary that includes an applicable targeted local market supplement may not exceed the rate cap equal to

## Department of Defense; OPM

## § 9901.342

the rate for Executive Level IV plus 5 percent, as provided in § 9901.312(b).

### § 9901.333 Setting and adjusting local market supplements.

(a) Standard local market supplements are set and adjusted consistent with the setting and adjusting of corresponding General Schedule locality payments under 5 U.S.C. 5304 and 5304a.

(b) Subject to § 9901.105, the Secretary may set and adjust targeted local market supplements. In determining the amounts of the supplements, the Secretary will consider mission requirements, labor market conditions, cost, and pay adjustments received by employees of other Federal agencies, allowances and differentials under 5 U.S.C. chapter 59, and any other relevant factors. The Secretary may determine the effective date of newly set or adjusted targeted local market supplements. Established supplements will be reviewed for possible adjustment at least annually in conjunction with rate range adjustments under § 9901.322.

### § 9901.334 Eligibility for pay increase associated with a supplement adjustment.

(a) When a local market supplement is adjusted under § 9901.333, employees to whom the supplement applies with current ratings of record above “unacceptable” (Level 1), and employees who do not have current ratings of record for the most recently completed appraisal period, are eligible to receive any pay increase resulting from that adjustment.

(b) An employee with a current rating of record of “unacceptable” will not receive a pay increase under this section (*i.e.*, the employee’s local market supplement percentage will not be increased). Once such an employee has a new rating of record above “unacceptable,” the employee is entitled to the full amount of any applicable local market supplement effective on the date of the first adjustment in that local market supplement occurring on or after the effective date of the new rating of record as specified in § 9901.411(d), or, if earlier, the effective date of an applicable general salary increase as described in § 9901.323(b).

## PERFORMANCE-BASED PAY

### § 9901.341 General.

Sections 9901.342 through 9901.345 describe the performance-based pay that is part of the pay system established under this subpart. These provisions authorize payments to employees based on individual performance or contribution, or team or organizational performance, as a means of fostering a high-performance culture that supports mission accomplishment.

### § 9901.342 Performance payouts.

(a) *Overview.* (1) The NSPS pay system will be a performance-based pay system and will result in a distribution of available performance pay funds based upon individual performance, individual contribution, team or organizational performance, or a combination of those elements. The NSPS pay system will use a pay pool concept to manage, control, and distribute performance-based pay increases and bonuses. The performance payout is a function of the amount of money in the performance pay pool and the number of shares assigned to individual employees.

(2) The rating of record used as the basis for a performance payout is the one assigned for the most recently completed appraisal period. Unless otherwise provided in this section, if an employee is not eligible to have a rating of record for the current rating cycle for reasons other than those identified in paragraphs (i) through (l) of this section, such employee will not be eligible for a performance payout under this part.

(b) *Performance pay pools.* (1) Pay pools and pay pool oversight will be established and managed in accordance with implementing issuances published by the Secretary, in such a manner as to ensure employees are treated fairly and consistently, and in accordance with merit system principles.

(2) Consistent with paragraph (b)(1) of this section, pay pool composition will be based on organization structure, classification structure, function of work, location, and/or organization mission. The decision on pay pool composition will be reviewed and approved by an official who is at a higher level